IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21000 of 2005

DATED: 25.7.2006

Between:

R.Sri Devi and another petitioner

And

Southern Power Distribution Company of A.P. Ltd
Rep by its CMD, Renigunta road, Tirupati, Chittoor dist
And others Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 21000 of 2005

ORAL ORDER:

In the present writ petition, the petitioner seeks the following relief;

> "……..writ of mandamus declaring the action of the respondents 1 to 4 in not finalizing my claim for payment of terminal benefits of my deceased husband M.Vijay Kumar, who died while working as Assistant Lineman in the services of respondents is illegal, irregular and violative of Article 14 and 21 of the constitution of India and also the relevant regulations and rules by which the services of my deceased husband were governed and consequently direct the respondents to settle and pay entire terminal benefits, family pension and also consider my case for providing job on compassionate grounds ……"

The petitioners herein are wife and daughter of one Mr.M.Vijay Kumar, who was employed in the respondent company as lineman. Said M.Vijay Kumar died in an accident on 16.4.2003. The 5th respondent herein is mother of deceased person. The first petitioner herein filed a suit in O.S. No. 289 of 2003 on the file of the Principal Senior Civil Judge, Chittoor alleging that the 5th respondent is trying to claim the entire insurance policy amounts. It is alleged that the 5th respondent is not cooperating in settlement of the terminal benefits of deceased person. The petitioner stated to have made a representation on 28.8.2003 to respondents 1 to 4 requesting to settle the terminal benefits of her husband and to provide a suitable job to her on compassionate grounds. Since, no action was taken by the

respondents, the first petitioner issued a legal notice dated 6.9.2003, however alleges that no further action was taken in the matter.

The third respondent filed counter affidavit admitting that Mr.Vijay Kumar worked as Assistant Line Man at Viziapuram in Puttur division and died on 16-4-2003. It is stated that the deceased person has not given any nomination to receive his terminal benefits and while the respondents are in the process of settling the pensionary benefits, separate legal notices were received from first petitioner and fifth respondent claiming terminal benefits of deceased person. Since rival claims were made claiming terminal benefits, the respondents issued reply notices to both the first petitioner and fifth respondent requiring them to produce necessary legal heir certificate succeeding the interest of late M.Vijay Kumar. It is also stated that the claim of the first petitioner for compassionate appointment can only be considered after disposal of the suit filed by her in O.S. No. 286 of 2003 on the file of the Principal Senior Civil Judge, Chittoor.

The fifth respondent also filed a counter affidavit inter-alia stating that the first petitioner lived with his son M.Vijay Kumar for a very short period and deserted him and has been residing separately at Upparapalle near Pakala and gave birth to second petitioner, and she did not care to inform the birth of second petitioner to Vijay Kumar. It is also contended that in presence of elders, a family settlement was entered wherein late Vijay Kumar declared that his parents are entitled to receive all the benefits and petitioners have no right to claim the terminal benefits.

In present case, no nomination was made by the deceased employee and rival claims were made by wife and mother for release of terminal benefits of the deceased employee. A suit filed by the first petitioner with regard to payment of insurance amount is pending in O.S. No.289 of 2003 on the file of the Principal Senior Civil Judge, Chittoor.

In view of rival claims made by the parties, the respondents have instructed the parties to produce necessary legal heir certificate succeeding the interest of the deceased person for settlement of claim and the same cannot be termed as an illegal action warranting interference of this Court. In the absence of production of required

documentary proof with regard to relationship and entitlement, the official respondents cannot be directed to release the terminal benefits of the deceased person. Since the official respondents have replied the legal notice requiring them to provide the legal heir certificate succeeding interest of late M.Vijay Kumar, the petitioner ought to have approached the concerned authorities by filing an application together with required certificates and documents in support of her claim. Based on such documents, it is for the concerned authorities to take a decision in the matter and this Court cannot look into the factual aspects.

In the circumstances, the writ petition is disposed of granting liberty to the petitioner to submit an application to the respondents, together with necessary material indicating her status and relationship with the deceased person. On filing such an application, the respondents are directed to consider and dispose of the same in accordance with law. It is needless to mention that, in case the petitioners are found eligible to receive the terminal benefits of the deceased person, necessary steps for payment of the same may be taken at the earliest.

Accordingly, the writ petition is disposed of . No costs.

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N.V.RAMANA,J

DATE:25.07.2006
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116

THE HON'BLE MR JUSTICE N.V. RAMANA

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